# PATENT APPLICATION NUMBER 10/705,657

Attorney Docket Number: 1077 001 301 0202

## IN THE UNITED STATES PATENT & TRADEMARK OFFICE

| In re | the application of:                                                                         | Jeremy Thaler et al. | . )          | Group Art Unit: 1761 |  |
|-------|---------------------------------------------------------------------------------------------|----------------------|--------------|----------------------|--|
| Filed | l: 11/10/2003 (10/70                                                                        | 5,657)               | )            | Examiner: H. Pratt   |  |
| For:  | PEANUT BUTTER<br>STABILIZER AND<br>MANUFACTURE                                              |                      | )            |                      |  |
|       |                                                                                             | AFFIDAVIT UNDER      | 37 CFR 1.131 |                      |  |
| POI   | Honorable Commissioner of Patents & Trademarks<br>PO Box 1450<br>Alexandria, VA, 22313-1450 |                      |              |                      |  |
| Sir;  |                                                                                             |                      |              |                      |  |
| Cou   | nty of Livingston                                                                           |                      | )            | S.S.                 |  |
| Stat  | e of New York                                                                               |                      | )            |                      |  |
|       |                                                                                             |                      |              |                      |  |

# 1, Jacob W. Rawley, being duly swom, depose and state:

- I prepared two samples of "peanut butter" in accordance with the recipe set forth in "Joy of Cooking" by Irma S. Rombauer and Marion Rombauer Becker, published by Bobbs-Merril Co. 1988 (page 564; see Exhibit).
- The samples were prepared with the alternative oils (safflower oil and vegetable oil) in accordance with the recipe set forth in the Exhibit (recipe quantities were doubled) and in the table below:

|                  | See Rombauer (Joy of Cooking) p. 564 |                  |  |
|------------------|--------------------------------------|------------------|--|
| Peanuts          | 2 cups                               | 2 cups           |  |
| Oil              | 4 TBSP safflower                     | 4 TBSP vegetable |  |
| Mixing treatment | Blender                              | Blender          |  |

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- 3. Within several days of their manufacture, the respective samples began to exhibit separation, as evidenced by a liquid layer forming on the top of the material in each jar. Inspection of the open jar for each sample revealed that if it were tipped, the liquid on the top would have flowed from the jar.
- 4. The jars were resealed with their lids, and I understand that the samples were then delivered to Duane C. Basch, Esq. It is my further understanding, based upon information and belief, that the samples were delivered by Mr. Basch to the U.S. Patent and Trademark Office on August 3, 2007.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this <u>§-7-07</u> day of August, 2007

STATE OF NEW YORK COUNTY OF Livingston

On this  $\frac{2^{7h}}{}$  day of August, 2007, before me, a  $\underline{\textit{Tacob Kawleigh}}$ , to me known to be the person of that name, who signed and sealed the foregoing instrument and he acknowledges the same to be his free act and deed.

Merile & Washer Notary Public

MERILEE G. WALKER
Notesy Public State of New York
Livingston County

#### Exhibit

#### 564 KNOW YOUR INCREDIENTS

the more subtle European versions of our native

HICKORIES AND BUTTERNEITS

Rich natives, like pecans, and they nover need blanching.

MACADAMIA NUTS

Use these exosic metriture 1-inch-round must oresisted or uncontent, in recipes calling for note; as cockail snacks or substance for Crimerica social snacks or substance for Crimerica social snacks or substance for Crimerica special snacks or substance for the content of the

Known siso as pilon in Spain or pignots in Italywhen the variety is richer. These are good in Doimas, 492, and in Posto, 570.

PISTACHIO NUIS

These ruis, loved for their green color and haunting flavor, are often used in forces or pates. To shall, spread on baking sheers and heat at 400° for a minutes. Cool and silp off skins.

ENGLISH AND AMERICAN WALNESTS

Walmut's are highly polyursaturated. Blanching for 3 minutes rids them of an acid which some people find indigestible. Then dry and tosast as indicated above. The English or Persian walmut and the American or black welmar are senthage the most similar, full at once site: harvesting. Pecans are probably the hasvoles in flat of all our railwes, with sometimes as much as three-fourths of their bulk in fat.

FEARUTS

These underground figurines—also called ground into or in their larger form, positive—an sight in mist or, in their larger form, positive—an sight in mist or, in their larger form, positive—an sight in valuable, if Incomplete, proteins. If we hear is the fine their larger form of the control of the small Spanish types will grow in the nondress and planet also best elected globe with a first possitive for the control of their larger fame, in the stell at home get fame, if rounding them in the shell at home constantly to avoid scorrching. Check to discuss the control of t

### A PEANUT BUTTER

federal regulations require commercial peanulbutier to contain 90% shelled coasted ground peanuts, with additions af no more than 10% of salt, sweeteners and oil. However smooth and satisfying commercial peanul butters may seem, they are often made without the garen of the nut. This valuable portion—as in grain—contains and professor. It is threatly to the border, the commercial objection be to the border, the commercial objection to the border. The commercial objection to the border of the commercial objects of the control of the commercial objects of the control of the control

it is wise to start with a bland oil; Saffigurer or vegetable oil

About is tesspoon saft per cup

#### ABOUT SEEDS, GRAINS, BEANS AND PEAS

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#### A TANIN

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d labiespoors ground sesame seeds I teaspoon sesame oil I lablespoon tenun or lime juice

's teaspoon salt Add slowly white blending:

About Px cup water

Remove from the blender and sar le if sais with: O to 2 pressed garde cloves! SPROL AND I Sproutir mutsing to their expancis COMMENT stready are the picto, 2. the c > that agricult rholdy and son 1 es

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